

EEA:amh
F.# 2013R02037

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE: SUBPOENA TO FACEBOOK, INC.

TO BE FILED UNDER SEAL

**Application for Non-Disclosure Order
Pursuant to 18 U.S.C. § 2705(b)**

No. 17-MC-2164

**APPLICATION FOR ORDER COMMANDING FACEBOOK, INC. NOT TO NOTIFY
ANY PERSON OF THE EXISTENCE OF A SUBPOENA**

The United States requests that the Court order Facebook, Inc. ("Facebook") not to notify any person (including the subscribers and customers associated with the account and/or the telephone number listed in the subpoena) of the existence of the subpoena attached to the proposed Order submitted herewith until further order of the Court.

Facebook is a provider of an electronic communication service, as defined in 18 U.S.C. § 2510(15), and/or a remote computer service, as defined in 18 U.S.C. § 2711(2). Pursuant to 18 U.S.C. § 2703, the United States obtained the attached subpoena, which requires Facebook to disclose certain records and information to the United States. This Court has authority under 18 U.S.C. § 2705(b) to issue "an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order." *Id.*

In this case, such an order would be appropriate because the attached subpoena relates to an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation, and there is reason to believe that its disclosure will alert the targets to the

ongoing investigation. Specifically, the account and/or the telephone numbers listed in the subpoena are believed to belong to or being used by individuals who are a target of the investigation, who are at large and who do not yet know of the investigation. Accordingly, there is reason to believe that notification of the existence of the attached subpoena will seriously jeopardize the investigation, including by giving the targets an opportunity to flee from prosecution, destroy or tamper with evidence, change patterns of behavior and intimidate potential witnesses. *See* 18 U.S.C. § 2705(b). Some of the evidence in this investigation is stored electronically and can be completely and permanently erased. Some of the evidence in this investigation involves communications that can be transferred to alternate platforms (including encrypted platforms and platforms beyond the jurisdictional reach of U.S. legal process). If alerted to the existence of the subpoena, there is reason to believe that the subjects under investigation will destroy that evidence and change their patterns of behavior.

WHEREFORE, the United States respectfully requests that the Court grant the proposed Order directing Facebook not to disclose the existence or content of the subpoena attached to the proposed Order, except that Facebook may disclose the subpoena to attorneys for Facebook for the purpose of receiving legal advice.

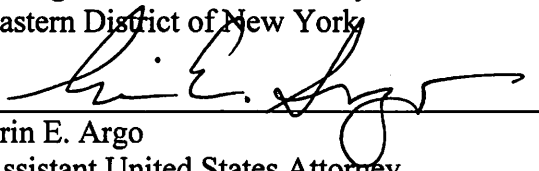
The United States further requests that the Court order that this application and any resulting order be sealed until further order of the Court. As explained above, these documents discuss an ongoing criminal investigation that is neither public nor known to all of

the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

Dated: Brooklyn, New York
August 2, 2017

BRIDGET M. ROHDE
Acting United States Attorney
Eastern District of New York

By:


Erin E. Argo
Assistant United States Attorney
718-254-6049

EEA:amh
F.# 2013R02037

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE: SUBPOENA TO FACEBOOK, INC.

TO BE FILED UNDER SEAL

No. _____

ORDER

The United States has submitted an application pursuant to 18 U.S.C. § 2705(b), requesting that the Court issue an Order commanding Facebook, Inc. ("Facebook"), an electronic communication service provider and a remote computing service, not to notify any person (including the subscribers and customers of the account and/or the telephone number listed in the subpoena) of the existence of the attached subpoena until further order of the Court.

The Court determines that there is reason to believe that notification of the existence of the attached subpoena will seriously jeopardize the investigation or unduly delay a trial, including by giving targets an opportunity to flee from prosecution, destroy or tamper with evidence, change patterns of behavior and intimidate potential witnesses. *See* 18 U.S.C. § 2705(b).

IT IS THEREFORE ORDERED under 18 U.S.C. § 2705(b) that Facebook shall not disclose the existence of the attached subpoena, or this Order of the Court, to the listed subscriber or to any other person, ~~unless~~ and until otherwise authorized to do so by the Court, except that Facebook may disclose the attached subpoena to attorneys for Facebook for the purpose of receiving legal advice.

NOVEMBER 2, 2017, SUBJECT TO
EXTENSION UPON A SHOWING OF
CONTINUING NEED, UNLESS

3.0.

IT IS FURTHER ORDERED that the application and this Order are sealed until
otherwise ordered by the Court.

Dated: Brooklyn, New York
August 2, 2017

NOVEMBER 2, 2017,
SUBJECT TO EXTENSION
UPON A SHOWING OF
CONTINUING NEED, UNLESS

J.2

s/James Orenstein

The Honorable James Orenstein
United States Magistrate Judge

F. # 2013R02037

AO 110 (Rev. 06/09) Subpoena to Testify Before a Grand Jury

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

SUBPOENA TO TESTIFY BEFORE A GRAND JURY

To: Facebook, Inc., Attn: Custodian of Records, 1601 California Avenue, Palo Alto, CA 94304

YOU ARE COMMANDED to appear in this United States district court at the time, date, and place shown below to testify before the court's grand jury. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: U.S. District Court, Eastern District of New York
225 Cadman Plaza East, 5th Floor, Room N547
Brooklyn, New York 11201

Date and Time:
August 14, 2017 at 10:00 a.m.

You must also bring with you the following documents, electronically stored information, or objects (*blank if not applicable*):

Please see the attached Rider.

You may comply with this subpoena by providing the above requested materials to Special Agent Elvin Hernandez, Department of Homeland Security, Homeland Security Investigations, 601 W. 26th Street, Suite 700, NY, NY 10001; Elvin.D.Hernandez@ice.dhs.gov; (646) 313-2771.

PLEASE DO NOT DISCLOSE THE EXISTENCE OF OR COMPLIANCE WITH THIS GRAND JURY SUBPOENA AS DISCLOSURE WOULD JEOPARDIZE AN ONGOING CRIMINAL INVESTIGATION. SEE ACCOMPANYING NON-DISCLOSURE ORDER.

Please provide the requested records along with a business records certification pursuant to Federal Rules of Evidence 803(6).



Date: 8/2/2017

DOUGLAS C. PALMER

CLERK OF COURT

A handwritten signature in black ink, appearing to read "D. Palmer", is written over the printed name and title.

Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the United States attorney, or assistant United States attorney, who requests this subpoena, are:

Assistant U.S. Attorney Patricia Notopoulos, U.S. Attorney's Office, Eastern District of New York
271 Cadman Plaza East, Brooklyn, New York 11201
erin.argo@usdoj.gov
(718) 254-6049

AO 110 (Rev. 06/09) Subpoena to Testify Before Grand Jury (Page 2)

PROOF OF SERVICE

This subpoena for *(name of individual or organization)* _____
was received by me on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

☐ I returned the subpoena unexecuted because: _____

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Facebook, Inc.
1601 Willow Road
Menlo Park, CA 94025
Attn: Facebook Security, Law Enforcement Response Team
Email: records@fb.com

August 2, 2017

SUBPOENA RIDER

The following records and information associated with the Facebook profiles:

<https://www.facebook.com/jonathan.velasquezgarcia>

<https://www.facebook.com/yessica.romero.94617>

<https://www.facebook.com/cesar.rojashernandez.50>

from 2010 to the present:

1. Names (including subscriber names, user names, and screen names);
2. Addresses (including mailing addresses, residential addresses, business addresses, and e-mail addresses);
3. Local and long distance telephone connection records;
4. Records of session times and durations, and the temporarily assigned network addresses (such as Internet Protocol ("IP") addresses) associated with those sessions;
5. Length of service (including start date) and types of service utilized;
6. Telephone or instrument numbers (including MAC addresses, Electronic Serial Numbers ("ESN"), Mobile Electronic Identity Numbers ("MEIN"), Mobile Equipment Identifier ("MEID"), Mobile Identification Numbers ("MIN"), Subscriber Identity Modules ("SIM"), Mobile Subscriber Integrated Services Digital Network Number ("MSISDN"), International Mobile Subscriber Identifiers ("IMSI"), or International Mobile Equipment Identities ("IMEI"));
7. Other subscriber numbers or identities (including temporarily assigned network addresses and registration Internet Protocol ("IP") addresses (including carrier grade natting addresses or ports)); and
8. Means and source of payment for such service (including any credit card or bank account number) and billing records.

Please also provide a business records certification.

You are to provide this information, if available, as data files on CD-ROM or other electronic media or by facsimile to Special Agent Elvin Hernandez, Department of Homeland Security, Homeland Security Investigations, 601 W. 26th Street, Suite 700, NY, NY 10001; Elvin.D.Hernandez@ice.dhs.gov; (646) 313-2771.